

December 18, 2023

**FILED VIA CM/ECF FILING**

The Honorable James Donato, U.S. District Judge San Francisco Courthouse, U.S. District Court  
 450 Golden Gate Avenue, Courtroom 11 – 19th Floor  
 San Francisco, CA 94102

Re: Advertisers' Request to Modify Schedule

Dear Judge Donato:

Pursuant to Civil L.R. 6-3, Advertiser Plaintiffs bring this letter motion requesting a modification to the operative scheduling order in this case (ECF No. 379, hereinafter, the "Order") as to the Advertiser case only.<sup>1</sup> Advertisers seek a two-week extension to three deadlines in the Order to accommodate recently learned-of changes to Advertiser expert Dr. Michael Williams's schedule. Dr. Williams recently learned on November 28, 2024 that he will be required to attend the entirety of a trial in another matter. That trial is scheduled for January 8, 2024 through January 19, 2024. Dr. Williams will also be required to devote significant time to prepare for the trial in the week prior, January 1 to January 8, 2024. Due to this unanticipated conflict, it will be very challenging for Dr. Williams and his staff to complete his merits expert report on the current schedule.

Advertisers have met and conferred with Defendant Meta Platforms, Inc. ("Meta"), who opposes this motion. For the convenience of the Court in deciding this letter motion, Advertisers have agreed to include Meta's statement in opposition below.

Advertisers seek to move only the following deadlines in the Order:

<u>Event</u>	<u>Deadline in Order</u>	<u>Advertisers' Proposed Deadline</u>
Bilateral merits expert disclosures	January 12, 2024	January 26, 2024
Bilateral merits rebuttal expert disclosures	February 9, 2024	February 23, 2024
Merits expert discovery cut-off	March 15, 2024	March 29, 2024

The remaining deadlines in the Order would be unaffected.

Federal Rule of Civil Procedure 16(b) provides that a scheduling order may be modified upon a showing of "good cause." Fed. R. Civ. P. 16(b)(4). "Good cause requires a showing of diligence. . . . Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." *Fujifilm Corp. v. Motorola Mobility LLC*, No. 12-CV-03587-WHO, 2014 WL 8094582, at \*1 (N.D. Cal. Nov. 19, 2014) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)).

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<sup>1</sup> Consumer Plaintiffs were consulted on and take no position as to this motion.

Here, there is no dispute that Advertisers acted diligently. Dr. Williams first learned of the changes to his schedule on November 28, 2023. Advertisers promptly raised the issue with Meta, and the parties have since met and conferred and reached impasse. This letter brief is filed soon after that impasse was reached and with nearly four weeks before the first affected deadline.

Further, although the “focus of the inquiry” is Advertisers’ reasons for and diligence in requesting the extension, it is also persuasive that Meta would suffer not prejudiced should the Court grant the extension. As explained to Meta during the meet-and-confer process, Advertisers seek a bilateral extension of the three deadlines in question. Consequently, neither party will be unfairly advantaged by receiving the other’s reports ahead of finalizing their own.

Therefore, Advertisers believe good cause exists here for the relief sought, and request the Court grant a bilateral two-week extension to only the three deadlines identified above, leaving the remaining deadlines in the Order unaffected.

**Meta’s Statement:** Meta opposes Advertisers’ request for an extension. This Court’s Scheduling Order has been in place for over a year. Dkt. 379. Meta has been willing to agree to reasonable scheduling modifications when a genuine need arises, *see* Dkt. 640 (agreeing to class certification expert schedule extension due to medical emergency), but Williams’s purported scheduling conflict here is not good cause for an extension of his report, let alone all of Advertisers’ expert reports. Williams is a Managing Director at Berkeley Research Group with no academic or teaching roles. He should be able to handle his responsibilities in his other case while finalizing his report in this case, particularly given that his class certification reports presumably already disclosed the market definition and damages methodologies that Williams intends to offer in this case. Meta’s experts are ready to serve their reports according to the previously scheduled deadlines, and Advertisers’ experts should do the same.

Respectfully submitted,

By: /s/ Amanda F. Lawrence

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*Interim Co-Lead Counsel for the Advertiser  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2023, I caused a true and correct copy of the foregoing document to be served by electronic mail on all counsel of record.

Dated: December 18, 2023

By: /s/Amanda F. Lawrence  
Amanda F. Lawrence